

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Interconnection Between Local Exchange Carriers )  
and Commercial Mobile Radio Service Providers )  
)

CC Docket No. 95-185

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**COMMENTS OF LDDS WORLDCOM**

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March 4, 1996

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## **SUMMARY**

LDDS WorldCom welcomes the Commission's initiation of this proceeding, and strongly supports requiring all local telecommunications carriers, including local exchange carriers and commercial mobile radio service providers, to permit other carriers to interconnect with their local networks by means of nondiscriminatory, cost-based, and tariffed interconnection rates. However, LDDS WorldCom believes that proposals in the Notice to establish a permanent long-term "bill and keep" approach to CMRS-LEC interconnection, and to set CMRS-IXC interconnection rates based on the current above-cost LEC access charge regime, are misguided because they would contradict the nondiscriminatory, cost-based interconnection principles that lie at the heart of the Commission's Notice.

LDDS WorldCom agrees with many of the crucial factual findings established in the Notice. The Commission clearly recognizes that the incumbent LECs possess monopoly power in local exchange markets, and may utilize that market power in discriminatory ways against competing carriers in the price, terms, and conditions of interconnection arrangements. The Commission observes that CMRS providers also possess market power, especially with respect to long distance companies that need to originate or terminate calls to or from a particular CMRS provider's customer. Moreover, the Notice warns against the significant danger of collusive, anticompetitive behavior between CMRS providers and incumbent LECs.

LDDS WorldCom also supports many of the basic regulatory principles expressed in the Notice. First, given the substantial market power by the incumbent LECs and by CMRS providers, there is a compelling public interest need for "efficient interconnection" with LEC networks. The Notice concludes that network-to-network interconnection rates should be set based on long-run incremental costing methodology. LDDS WorldCom believes that two

concerns raised in the Notice concerning LRIC-based pricing -- purported practical and administrative problems, and potential underrecovery of common and embedded costs -- are overblown, and in any event can be rectified if necessary. Other well-founded principles highlighted in the Notice include the continuing need for regulatory oversight to ensure cost-based interconnection rates, the desire for the same pricing levels and structure for the same network functionalities, and the recognition that LEC-IXC interstate access charges are actually nothing more than network-to-network interconnection charges.

LDDS WorldCom is very troubled by the Commission's tentative conclusion that the so-called "bill and keep" approach represents the best interim solution to a long-term interconnection compensation plan. As the Commission itself acknowledges, bill and keep is not cost-based because at least some incremental costs are being incurred by providers to terminate traffic. In addition, bill and keep raises disturbing discrimination concerns. For example, an entity seeking to terminate interLATA traffic to an affiliated local entity may attempt to use the bill and keep approach as a way of avoiding paying the appropriate interstate access charges required under Part 69 of the FCC's rules. The new Telecommunications Act of 1996 also appears to prohibit a bill and keep system for interconnection. Despite these and other strong reservations, LDDS WorldCom would not necessarily oppose an interim bill and keep approach, but only as long as: (1) it is only as a short-term (no more than twelve months) alternative to a permanent, cost-based interconnection regime; and (2) all providers abide by across-the-board nondiscrimination and equal access provisions, including a requirement that carriers seeking to terminate interLATA traffic to affiliated LECs or CMRS networks are prohibited from utilizing the interim bill and keep approach as a means of avoiding the payment

of applicable Part 69 access charges.

In addition, the Commission's proposal concerning LEC recovery of transport costs from CMRS providers at least implies that only tandem switching and tandem-to-end office transmission would be subject to a usage-sensitive charge. Because this approach would not be consistent with the FCC's interim transport rate structure, LDDS WorldCom believes that the LECs, at least on an interim basis, should recover all transport costs from CMRS providers in the same manner that transport costs are now recovered from IXCs.

A permanent interconnection structure, as the Commission itself acknowledges, should include cost-based prices so that the same interconnection functions are priced the same. Interconnection rates should be based on LRIC, with all other non-LRIC costs, including joint and common overhead costs, recovered in the LEC's or CMRS provider's retail rates. LDDS WorldCom believes that all interconnection rates between LECs and those entities seeking to access their local networks should be contained in tariff filings at the FCC, so that all parties are assured that reasonable terms and conditions of interconnection are being offered on a nondiscriminatory basis. LDDS WorldCom also favors a strong federal role in the establishment and oversight of LEC-CMRS provider interconnection policies.

LDDS WorldCom strongly opposes any proposal which would allow CMRS providers to charge IXCs for interstate access on the basis of artificially-elevated LEC access charges. The LECs' above-cost, subsidy-ridden interstate access charge regime should not be used in any way as a foundation for CMRS-IXC interconnection rates. Certainly the Part 69 access charge rules should not be extended to CMRS providers without comprehensive reform that drives all access charges to cost. Instead, any CMRS-IXC access charges authorized by the

FCC should be tariffed and regulated to ensure that they are set on the basis of direct economic cost.

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**COMMENTS OF LDDS WORLDCOM**

WorldCom, Inc., d/b/a LDDS WorldCom ("LDDS WorldCom"), hereby files its comments in response to the Notice of Proposed Rulemaking ("Notice"), FCC 95-505, released by the Commission on January 11, 1996, and the Order and Supplemental Notice of Proposed Rulemaking ("Supplemental Notice"), FCC 96-61, released by the Commission on February 16, 1996, in the above-referenced proceeding. As one of the four largest facilities-based interexchange carriers ("IXCs") in the United States, LDDS WorldCom has a substantial interest in the outcome of this proceeding.

LDDS WorldCom strongly supports requiring all local telecommunications carriers, including local exchange carriers ("LECs") and commercial mobile radio service ("CMRS") providers, to permit other carriers to interconnect with their local networks by means of nondiscriminatory, cost-based interconnection rates on public file with the Commission. As will be explained below, LDDS WorldCom believes that two proposals that are suggested in the Notice -- establishing a long-term "bill and keep" approach to CMRS-LEC interconnection, and setting CMRS-IXC interconnection rates based on the current above-cost LEC access charge regime -- would be contrary to the nondiscriminatory, cost-based interconnection principles laid out by the Commission in the Notice.

**I. LDDS WORLDCOM SUPPORTS THE COMMISSION'S PRO-COMPETITIVE GOALS IN THIS PROCEEDING, AND APPLAUDS ITS RECOGNITION OF THE CRITICAL NEED FOR COST-BASED INTERCONNECTION RATES FOR ALL SERVICE PROVIDERS**

LDDS WorldCom applauds the Commission's initiation of this proceeding as part of its ongoing efforts to facilitate the creation of a "network of networks." The issue of proper interconnection arrangements between telecommunications service providers is one of the primary policy questions confronting the FCC today. How the Commission settles this issue will have an enormous and far-reaching impact on the character and competitive health of the market, and whether the public interest will be served or thwarted in the process.

LDDS WorldCom agrees with many of the key factual premises underlying the proposals articulated in the Notice. The Commission clearly recognizes as a fundamental matter that the incumbent LECs "currently possess monopoly power in local exchange markets."<sup>1</sup> As a result of this persistent and entrenched monopoly power, the Commission notes that the LECs may use the price, terms, and conditions of interconnection arrangements with other carriers in order to "buttress LEC market power against erosion by competition."<sup>2</sup> The LEC may "extract monopoly rents for interconnection," or otherwise "attempt to restrict the entry of potential competitors," by setting their interconnection rates prohibitively high.<sup>3</sup> Obviously, by definition, such "substantial market power" could be exercised against CMRS providers, competitive access providers ("CAPs"), long distance companies seeking to provide competing

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<sup>1</sup> Notice at para. 90. See also paras. 2, 13 ("LECs unquestionably still possess substantial market power in the provision of local telecommunications services.").

<sup>2</sup> Notice at para. 2.

<sup>3</sup> Notice at para. 12.



local service, or any other entity attempting to interconnect with the LECs' local networks. Of course, with passage of the Telecommunications Act of 1996,<sup>4</sup> and the concomitant potential for the monopoly Bell Companies to provide long distance service for the first time, those LECs will have every incentive to leverage their considerable market power into discriminatory conduct aimed directly at the IXC.

The Commission also observes that CMRS providers possess market power, at least with respect to long distance companies. In particular, the Notice posits that CMRS providers "may have some market power over IXCs that need to terminate calls to a particular CMRS provider's customer, or to originate calls (in an equal access context) from such a customer."<sup>5</sup> In such situations, the CMRS provider is in the same entrenched market position vis-a-vis the IXC as the incumbent wireline LEC.

In addition to LEC market power over all interconnecting entities, and CMRS provider market power over interconnecting IXCs, the Notice also recognizes the significant danger of collusive, anticompetitive behavior between CMRS providers and incumbent LECs which compete directly against one another. For example, both entities could "voluntarily agree to arrangements that would not advance the public interest,"<sup>6</sup> such as negotiating a high per minute charge to terminate each other's traffic.<sup>7</sup> Such collusive behavior would more likely

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<sup>4</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) ("The 1996 Act").

<sup>5</sup> Notice at para. 117.

<sup>6</sup> Notice at para. 90.

<sup>7</sup> Notice at para. 13.

occur in the not-uncommon situation "where the CMRS provider is an affiliate of the LEC."<sup>8</sup> In this instance, the LEC and CMRS provider together can act to thwart competition and deny the benefits of true competition to the consumer.

The Commission draws several cogent conclusions from its tentative analysis of the realities of the complex web of relationships between CMRS providers, incumbent LECs, and IXC. First, given the recognition of entrenched market power by the incumbent LEC, and similar market power by the CMRS provider, there is a compelling need for what the FCC terms "efficient interconnection" with LEC networks. Such LEC interconnection would enable new providers to compete with the LECs, and allow subscribers of one network to obtain access to all subscribers of all networks.<sup>9</sup> The Notice states that efficient interconnection to local networks requires, above all else, the proper price, because "[i]nterconnection that is priced too high can be the marketplace equivalent of no interconnection."<sup>10</sup> To assure that network-to-network prices are not set so as to undermine a carrier's interconnection obligation, the Notice tentatively endorses setting those rates based on the long-run incremental costing ("LRIC") methodology. The Notice refers to LRIC approvingly as the "theoretical foundation for efficient pricing of interconnection and other network services" because LRIC reflects "the true economic cost of a service," gives "appropriate signals to producers and consumers," and ensures "efficient entry and utilization of the telecommunications infrastructure."<sup>11</sup>

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<sup>8</sup> Notice at para. 13.

<sup>9</sup> Notice at para. 9.

<sup>10</sup> Notice at para. 10.

<sup>11</sup> Notice at para. 47.

Another well-founded conclusion highlighted in the Notice is that regulatory oversight will be necessary, at least for the foreseeable future, to ensure that cost-based interconnection rates are established and maintained by local network providers. The Commission states its belief that "optimal interconnection arrangements are unlikely to result from purely private negotiations," given the severe imbalance in negotiating power between the monopoly LECs and the new CMRS providers seeking to enter the LECs' local exchange markets.<sup>12</sup> Given the likelihood that the LECs would seek to impose "unduly high interconnection rates or other unreasonable conditions that would reduce CMRS entry," the Commission concludes that "participation in the process by regulators may be warranted for some period of time."<sup>13</sup> Moreover, where the Commission expresses its concerns about collusive behavior between CMRS providers and LECs in setting anticompetitive interconnection rates, "intervention may be necessary to prevent such outcomes."<sup>14</sup>

The Notice also acknowledges another fundamental fact: that the interstate access charges paid by IXC's to access the LECs' local networks under Part 69 of the FCC's rules are actually nothing more than network-to-network interconnection charges. As the Commission states, "[i]nterstate access is essentially another form of interconnection between networks, that between LECs and IXC's."<sup>15</sup> The Notice embraces the equitable concept that "functionally equivalent forms of network interconnection arguably should be available to all types of

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<sup>12</sup> Notice at para. 90.

<sup>13</sup> Notice at para. 90.

<sup>14</sup> Notice at para. 13.

<sup>15</sup> Notice at para. 17.

networks at the same prices, unless there are cost differences or other policy considerations that justify different rates."<sup>16</sup> As one example, the Notice observes that "we believe that the dedicated transport facilities used to connect LEC and IXC networks are similar to or identical to the facilities connecting LEC and CMRS networks."<sup>17</sup> The Commission thus posits that it may be true that "LECs provide essentially similar interconnection services to CMRS providers and to IXCs."<sup>18</sup>

Given this functional equivalence, the Notice observes that "there may be important reasons why the regulatory regime for interstate access charges should not vary dramatically from the rules relating to LEC-CMRS interconnection, to the extent that LEC-CMRS and LEC-IXC interconnection use similar features and functions."<sup>19</sup> Indeed, the Notice discussions about the fear of LEC monopoly power, the desire for efficient, cost-based interconnection rates, and the need for continued regulatory oversight, would ring just as true if the Commission simply substituted the phrase "long distance company" in the place of "CMRS provider." In any event, the Commission is certainly correct that this proceeding is "closely related" to the long-awaited access charge reform. Indeed, the important decisions reached in this proceeding for CMRS-LEC interconnection rates should help set the intellectual foundation for the new regulatory structure for all interconnection/access charges.

LDDS WorldCom firmly agrees with many of the noted observations and market

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<sup>16</sup> Notice at para. 77.

<sup>17</sup> Notice at para. 64.

<sup>18</sup> Notice at para. 77.

<sup>19</sup> Notice at para. 17.

analyses expressed by the Commission in the Notice. These observations, in turn, yield tentative regulatory conclusions that, for the most part, appear to be well-founded. Nonetheless, there are several proposals suggested by the Commission which not only find little support in the Notice's insightful observations, but in fact directly contravene those observations. LDDS WorldCom believes that two of those tentative suggestions -- establishing a long-term "bill and keep" approach to CMRS-LEC interconnection, and setting CMRS-IXC interconnection rates based on the current above-cost LEC access charge regime -- would be completely contrary to the nondiscriminatory, cost-based interconnection principles laid out in the Notice.

**II. ALL NETWORK-TO-NETWORK COMPENSATION RATES BETWEEN LOCAL TELECOMMUNICATIONS SERVICE PROVIDERS, INCLUDING CMRS PROVIDERS AND LECS, MUST BE NONDISCRIMINATORY, BASED ON LONG-RUN INCREMENTAL COST, AND PUBLICLY FILED WITH THE FCC**

**A. LDDS WorldCom Would Not Oppose Short-Term Use Of A "Bill and Keep" Plan, But Only As An Expressly Interim Step Towards a Permanent, Nondiscriminatory Interconnection Rate Structure Which Is Based On Underlying Network Costs**

**1. Existing Compensation Arrangements**

LDDS WorldCom has little actual experience with the interconnection compensation arrangements now in place between the LECs and CMRS providers, and will not comment on this issue at this time.

**2. General Pricing Principles**

As noted above, LDDS WorldCom agrees with many of the Commission's tentative conclusions about how to price network-to-network interconnection. It is indeed a

truism that "costs should be recovered in a manner that reflects the way they are incurred."<sup>20</sup> LDDS WorldCom also strongly endorses the Commission's conclusion that the long-run incremental cost of a service is "the theoretical foundation for efficient pricing of interconnection and other network services."<sup>21</sup> LRIC obviously reflects "the true economic cost of a service," gives "appropriate signals to producers and consumers," and ensures "efficient entry and utilization of the telecommunications infrastructure."<sup>22</sup> The Commission briefly mentions only two general concerns with the unqualified use of pure LRIC pricing: (1) it may raise "significant practical and administrative problems," and (2) may not allow recovery of common costs and "the historical, embedded costs of the network."<sup>23</sup> LDDS WorldCom believes that neither concern is justified.

First, the stated disadvantage of "requiring contentious, and time consuming administrative proceedings to resolve the complex issues raised by cost studies"<sup>24</sup> is more perception than reality. Cost studies certainly are not simple matters, but neither are they impossible to produce without significant expense in time and resources. Certainly when pitted against the overwhelming advantage of producing a solid evidentiary foundation for true cost-based rates, the administrative disadvantage of a cost study pales in comparison. Nonetheless, should the Commission find that the relative burdens of cost studies outweigh their many benefits

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<sup>20</sup> Notice at para. 42.

<sup>21</sup> Notice at para. 47.

<sup>22</sup> Notice at para. 47.

<sup>23</sup> Notice at para. 48.

<sup>24</sup> Notice at para. 57.

-- which it should not -- there are possible alternatives available. For example, under the 1996 Act -- which requires cost-based interconnection rates between carriers -- the LECs are directed to obtain an joint federal/state audit from an independent auditor to determine compliance with applicable separate subsidiary requirements.<sup>25</sup> A similar independent auditing procedure, instituted at the Commission's direction, might be used to determine the cost basis for LEC interconnection and access rates. In addition, as the Notice points out, cost-based prices can also be derived through other means, such as "potentially reasonable proxies in lieu of developing rates based on complete cost justifications...."<sup>26</sup> While LDDS WorldCom generally supports the use of independent cost studies to establish cost-based rates for local facilities-based providers, a cost proxy may be an acceptable alternative in this particular instance, provided such a proxy was derived in an economically rigorous and supportable fashion.

The second general concern about recovery of overhead costs is also overstated. Although LDDS WorldCom supports LEC and CMRS provider pricing based on the LRIC of specific services, we recognize that some recovery of common costs may be necessary. However, these economic overhead costs should be recovered by the LECs in their retail rates (e.g., in basic telephone service and in so-called "vertical calling features," such as Caller-ID and call waiting), and not in their carrier interconnection rates. Including shared costs and overhead in interconnection rates would only create significant economic distortions of those

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<sup>25</sup> 1996 Act, Section 272(d).

<sup>26</sup> Notice at para. 76.

rates, and send the wrong economic signals to the market.<sup>27</sup> The FCC should ensure that telecommunications network subscribership is encouraged by cost-based network-to-network interconnection rates, to prevent the likelihood that high, above-cost rates will become "the marketplace equivalent of no interconnection."<sup>28</sup>

### **3. Pricing Proposals**

#### **a. Interim Pricing Plan**

The Commission states that the possibility of significant delays in devising the proper approach to setting LEC-CMRS interconnection rates leads it to tentatively conclude that "an interim pricing approach should be adopted that could be implemented relatively quickly and with minimal administrative burdens on CMRS providers, LECs, and regulators."<sup>29</sup> The Notice tentatively identifies the so-called "bill and keep" approach (where "each network recovers from its own end users the cost of both originating traffic delivered to the other network and terminating traffic received from the other network") as the best interim solution.<sup>30</sup> The bill and keep arrangement in effect assumes that the net cost of terminating traffic to another carrier's network is zero for both carriers. The Notice also proposes an interim method for

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<sup>27</sup> This is certainly the case in the FCC's current interstate access charge regime, which includes a whole host of explicit and implicit subsidies and other non-cost-based expenses which long distance companies, and their customers, are forced to pay.

<sup>28</sup> Notice at para. 10.

<sup>29</sup> Notice at para. 59.

<sup>30</sup> Notice at para. 60.



LECs to recover transport costs associated with connecting CMRS MTSOs with LEC end offices.<sup>31</sup>

i. **Bill and keep**

LDDS WorldCom is very troubled by the bill and keep approach. As the Commission itself acknowledges, bill and keep is not cost-based because at least some incremental costs are being incurred by providers to terminate traffic.<sup>32</sup> Even if the average incremental cost of local termination on LEC networks is about 0.2 cents/minute,<sup>33</sup> a figure which does not appear unreasonable, that is still an expense amount which will not be collected from the interconnecting carrier under a bill and keep approach. Where net costs between networks are not zero, such a scheme goes against the Commission's principled endorsement of cost-based interconnection rates.

In addition, bill and keep raises disturbing discrimination concerns. For example, an entity seeking to terminate interLATA traffic to an affiliated entity may attempt to use the bill and keep approach as a way of avoiding paying the appropriate interstate access charges required under Part 69 of the FCC's rules. If such an arrangement is permitted, telecommunications providers will seek to utilize bill and keep as a means of "gaming" the system by opting out of the Commission's access charge regime completely. The Commission highlights this very concern in the Notice, stating that "substantially different prices for similar forms of interconnection raise the possibility that parties could seek to deflect traffic from a

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<sup>31</sup> Notice at paras. 63-64

<sup>32</sup> Notice at para. 62.

<sup>33</sup> Notice at para. 61.

more costly form of interconnection to a less costly form."<sup>34</sup> Such a scenario would lead to severe uneconomic distortions in the interstate access market.

The new Telecommunications Act of 1996 also appears to prohibit a bill and keep system for interconnection. Section 251(c)(2) requires incumbent LECs to provide interconnection on "just, reasonable, and nondiscriminatory terms,"<sup>35</sup> and Section 252(d)(1) requires cost-based, nondiscriminatory rates for interconnection.<sup>36</sup> Bill and keep arrangements between carriers are expressly not precluded by the new Act for charges for transport and termination of traffic,<sup>37</sup> but the FCC's mandatory imposition of such an arrangement for interconnection between networks appears to violate the nondiscrimination and cost basis provisions of the 1996 Act.<sup>38</sup>

Nonetheless, despite its strong reservations, LDDS WorldCom would not necessarily oppose an interim bill and keep approach, as long as it is conditioned properly. First, the Commission should expressly permit bill and keep only as a short-term, non-cost-based alternative to the ultimate solution of a permanent, cost-based interconnection regime. Second, the bill and keep approach should be permitted for no more than twelve months, to give the

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<sup>34</sup> Notice at para. 77.

<sup>35</sup> The 1996 Act, Section 251(c)(2).

<sup>36</sup> The 1996 Act, Section 252(d)(1).

<sup>37</sup> The 1996 Act, Section 252 (d)(2)(B)(i).

<sup>38</sup> LDDS WorldCom also disagrees with the off-hand characterization in the Notice of dedicated transport rates that the LECs might charge CMRS providers as "reasonably cost-based." Notice at para. 64. The transport rate structure is currently subject to an appeal to the D.C. Circuit, and the Commission would be remiss in relying in this proceeding on the supposed "reasonably cost-based" nature of transport rates until the D.C. Circuit has had an opportunity to rule.

Commission sufficient time to devise the permanent LEC-CMRS interconnection approach and rebalance all other interconnection rates as part of its long-awaited access charge reform docket. A third necessary component of an interim bill and keep approach is a requirement that all providers abide by across-the-board nondiscrimination and equal access provisions. Specifically, the Commission should prohibit any carrier seeking to terminate interLATA traffic to an affiliated LEC or CMRS network from utilizing the interim bill and keep approach as a means of avoiding the payment of applicable Part 69 access charges. Finally, CMRS providers and LECs should only be allowed to pay each other symmetrical (*i.e.*, the same) rates in the interim as part of bill and keep;<sup>39</sup> any long-term plan must require rates based on actual network costs.

**ii. Transport costs between the CMRS and LEC networks**

In addition to recommending an interim "bill and keep" methodology to recover the costs of terminations between LEC and CMRS networks, the Notice proposes a system to recover the transport costs associated with connecting CMRS MTSOs with LEC end offices. The Notice tentatively concludes that "when LECs provide the dedicated transmission facilities between CMRS MTSOs and LEC networks, they should be able to recover the costs of those facilities from CMRS providers through appropriate dedicated transport rates found in their existing access tariffs."<sup>40</sup> The Notice also seeks comment on "whether and how LECs should recover from CMRS providers the costs of tandem switching and common transport between tandem switches and end offices, in cases where such LEC-provided facilities are used."<sup>41</sup> The

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<sup>39</sup> Notice at para. 78.

<sup>40</sup> Notice at para. 64.

<sup>41</sup> Notice at para. 65.

Notice implies that only tandem switching and the transmission between the LEC tandem and the LEC end office would be subject to a usage-sensitive charge. All other facilities would be subject to flat-rated charges.<sup>42</sup>

This tentative approach, if adopted, would not be consistent with the interim transport rate structure established for interexchange access in the Transport Rate Structure and Pricing proceeding.<sup>43</sup> Under the interim transport order, dedicated transport facilities between an IXC's point-of-presence ("POP"), the equivalent of a CMRS MTSO, and a LEC end office are subject to a flat rate. For transmissions from an IXC's POP using tandem switching to reach a LEC end office, the IXC has two choices under the interim transport rules. First, the IXC can pay a flat rate for a circuit between the IXC POP and the LEC tandem, a usage-sensitive rate for the transmission from the tandem to the end office, and a usage-sensitive tandem switching charge.<sup>44</sup> This is the approach that appears to be suggested by the Notice. Second, and far more frequently, the IXC pays a usage-sensitive rate for transmission of traffic from the IXC's POP all the way to the end office and a usage sensitive tandem switching charge.<sup>45</sup> The Notice does not appear to contemplate this mode of recovering the costs of transport between the CMRS and LEC networks.

Under the equitable principle that carriers should be charged in a similar fashion

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<sup>42</sup> Notice at para. 63.

<sup>43</sup> See Transport Rate Structure and Pricing, CC Docket 91-213, 7 FCC Rcd 7006 (1992) ("Transport Order"), first recon., 8 FCC Rcd 5370 (1993), second recon., 8 FCC Rcd 6233 (1993), third recon., 10 FCC Rcd 3030 (1994), fourth recon., FCC 95-404 (released Sept. 22, 1995, petitions for review pending).

<sup>44</sup> See Transport Order, 7 FCC Rcd at 7009-7010.

<sup>45</sup> Transport Order, 7 FCC Rcd at 7010.

for the provision of similar services, on an interim basis the Commission should apply the same transport rate structure on CMRS/LEC interconnection as it has imposed on IXC/LEC interconnection. The fashioning of this interim compensation proposal is not the appropriate place to debate the relative merits of various possible approaches. That debate should be held in the context of a comprehensive access charge reform proceeding. Until a long-term approach is adopted, however, the LECs should recover the costs of transport from CMRS providers in the same manner that transport is recovered from IXCs.<sup>46</sup>

LDDS WorldCom also does not favor the other interim alternatives mentioned in the Notice. In particular, applying a sub-set of the LECs' existing interstate access charges to CMRS providers (except in the limited fashion described above) makes no sense because, as we explain below, the current LEC access charges regime is not an appropriate framework for LEC-CMRS interconnection. Indeed, the current access charge rate structure and rate levels are not an appropriate framework for LEC-IXC interconnection, either. Without comprehensive and equitable access charge reform, applying LEC access charges to CMRS providers will only serve to spread the subsidy-ridden system to another universe of LEC interconnectors. Another alternative proposed by the Commission -- relying on existing interconnection arrangements between LECs and CMRS providers or LECs and CAPs -- does not address the severe imbalance in negotiating power between the monopoly LECs and the new CMRS providers or CAPs seeking to enter the LECs' local exchange markets. As the Commission notes earlier in the Notice, "optimal interconnection arrangements are unlikely to result from purely private

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<sup>46</sup> Presumably -- and appropriately -- the long-term approach will also result in IXC and CMRS providers using the same transport rate structure.

negotiations."<sup>47</sup>

**b. Permanent Pricing Plan**

For the reasons discussed above, LDDS WorldCom strongly disapproves of any permanent plan based on the bill and keep approach. Instead, as the Commission itself states, a long-term interconnection structure should include cost-based prices because such arrangements meet its first principle of "efficient incentives regarding both consumption and investment in telecommunications services."<sup>48</sup> The Commission's other major pricing principle deserves to be quoted at length:

Second, functionally equivalent forms of network interconnection arguably should be available to all types of networks at the same prices, unless there are cost differences or other policy considerations that justify different rates. Thus, in the long run, if LECs provide essentially similar interconnection services to CMRS providers and to IXC's, then it may well be in the public interest for the rates in LEC-CMRS interconnection arrangements not to differ from the rates for LEC-IXC interconnection -- i.e., access charges.<sup>49</sup>

LDDS WorldCom agrees completely with the equitable principle that the same interconnection functions must be priced the same. This nondiscriminatory treatment is required by Section 202(a) of the Communications Act of 1934, as amended,<sup>50</sup> and goes hand-in-hand with the need for cost-based pricing, based on LRIC.<sup>51</sup> Thus, interconnection rates should be

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<sup>47</sup> Notice at para. 90.

<sup>48</sup> Notice at para. 76.

<sup>49</sup> Notice at para. 77.

<sup>50</sup> 47 U.S.C. § 202(a).

<sup>51</sup> Notice at paras. 47-48.

based on (1) long-run incremental cost, and (2) the principle of "same rate for same function."

With interconnection rates based on LRIC, all other non-LRIC costs, including joint and common overhead costs, should be recovered in the LEC's or CMRS provider's retail rates. Barring such an approach, the true economic costs should only be recovered as part of a nondiscriminatory apportionment of overhead and shared costs.<sup>52</sup> For uneconomic costs (i.e., subsidies), the LEC or CMRS provider should recover them in their rates.<sup>53</sup>

**B. Pertinent Terms of All LEC/CMRS Compensation Arrangements Must Be Publicly Filed In Tariffs and Governed By Mandatory Federal Standards**

**1. Negotiations and Tariffing**

LDDS WorldCom agrees with the Commission's tentative conclusion that "information about interconnection compensation agreements should be made publicly available in order to foster competition and to advance the public interest."<sup>54</sup> LDDS WorldCom believes further that all interconnection rates between LECs and those entities seeking to access their local networks should be contained in tariff filings at the FCC. The tariff process dictated by Section 203 of the Communications Act of 1934 is a crucial means for ensuring that carriers with market power -- the LECs -- do not exercise that power in rates, terms, and conditions that are unreasonably and unjustly discriminatory.<sup>55</sup> Where the dominant LECs are facing potential

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<sup>52</sup> Notice at paras. 51-55.

<sup>53</sup> If the Commission does not adopt this approach for uneconomic costs, those costs should be placed in a competitively-neutral Universal Service Fund ("USF") and paid by all telecommunications service providers.

<sup>54</sup> Notice at para. 95.

<sup>55</sup> 47 U.S.C. § 203.

competition from nascent CMRS providers, the incentive for carriers to discriminate is all the more prevalent. Thus, the publication of interstate tariffs will offer all parties, including the FCC, assurances that reasonable terms and conditions of interconnection are being offered by the LECs and CMRS providers on a nondiscriminatory basis.

## **2. Jurisdictional Issues**

LDDS WorldCom favors a strong federal role in the establishment and oversight of LEC-CMRS provider interconnection policies. In fact, such a role is mandated by Congress' 1993 amendments to the 1934 Act. Section 332 of the amended 1934 Act prohibits the states from regulating "the rates for any commercial mobile service...."<sup>56</sup> That provision is not altered by the 1996 Act. To facilitate a seamless national telecommunications infrastructure, the Commission should assume its proper statutory role of setting cost-based, nondiscriminatory interconnection rates.

Of the three options listed in the Notice, LDDS WorldCom favors the third alternative of the Commission promulgating specific federal requirements for interstate and intrastate LEC-CMRS interconnection arrangements.<sup>57</sup> Placing specific mandatory parameters on state action regarding interconnection rates is the correct jurisdictional policy under the statute, as well as the correct means of assuring that LECs and CMRS providers establish economically correct rates that will lead to the Commission's overriding goal of "efficient interconnection."

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<sup>56</sup> 47 U.S.C. § 332(c)(3).

<sup>57</sup> Notice at para. 110.



### **III. LDDS WORLDCOM STRONGLY OPPOSES THE PAYMENT OF ACCESS CHARGES TO CMRS PROVIDERS BASED ON THE CURRENT SUBSIDY-RIDDEN, ABOVE-COST LEC ACCESS CHARGE REGIME**

The Notice tentatively concludes that "CMRS providers should be entitled to recover access charges from IXC's as the LECs do when interstate interexchange traffic passes from CMRS customers to IXC's (or vice versa) via LEC networks."<sup>58</sup> The Notice seeks comments on the basis for CMRS providers' access charges, but suggests that CMRS providers could impose interstate access charges "that mirror those of the LECs with which they connect."<sup>59</sup> The Commission also posits whether it should continue its current policy of forbearing from regulating CMRS providers' interstate access charges.<sup>60</sup>

It is obvious that CMRS providers do and will incur some costs when their interexchange traffic passes to or from long distance networks by way of the LECs. It is also obvious that CMRS providers are entitled to recover those direct economic costs from the cost causer (in this case, the IXC). The notion that CMRS-related costs should be recovered in the guise of the LECs' above-cost, subsidy-ridden interstate access charge regime, however, has absolutely no foundation in reality. LDDS WorldCom strongly opposes any proposal which would allow CMRS providers to charge IXC's for interstate access on the basis of artificially-elevated LEC access charges. Instead, any access charges authorized by the FCC should be tariffed and regulated so that CMRS access charges are set on the basis of direct economic cost.

As the Commission observes so cogently in the Notice, interstate access is just

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<sup>58</sup> Notice at para. 116.

<sup>59</sup> Notice at 117.

<sup>60</sup> Notice at para. 117.